

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
BRIAN S. MILLER, JUDGE

DIVISION II

CA06-1210

June 13, 2007

AREA AGENCY ON AGING NW &  
RISK MANAGEMENT RESOURCES

APPELLANTS

v.

RHONDA BAKANOFF

APPELLEE

AN APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[F405695]

AFFIRMED

Appellants, Area Agency on Aging NW (the agency) and Risk Management Resources, appeal the Workers' Compensation Commission's award of benefits to appellee Rhonda Bakanoff, asserting that the Commission erred in finding: (1) that disc space narrowing is an objective finding, and (2) that Bakanoff sustained a compensable injury. We affirm.

Bakanoff sustained a lower back injury while working for the agency on November 23, 2003. She reported the incident the next day but initially declined medical assistance. Bakanoff continued to hurt, so the agency provided her with medical attention.

Bakanoff was diagnosed with a lower back sprain by Dr. Ken Collins on December

22, 2003. Dr. Collins noted that Bakanoff was still sore when she visited his office on December 29, 2003. After a January 5, 2004, follow-up visit, Dr. Collins noted no improvements to Bakanoff's back and ordered an MRI, which revealed several nerve root cysts and desiccation (narrowing) of disc material at L4-5 and to a lesser degree at L3-4.

Dr. Collins referred Bakanoff to a spinal neurologist, Dr. James Blankenship, who found "minimal disc space narrowing at L3-4 and more significantly at L4-5, with some mild lateral recess stenosis." Dr. Blankenship found that Bakanoff's pain was directly related to her November 12, 2003, injury.

Dr. Earl Peoples, an independent medical examiner, reviewed Bakanoff's MRI and found that it revealed slight desiccation but that there was "no specific objective radiographic finding" that attributed Bakanoff's pain to her work accident. He also found that the desiccation was within the normal range for a person Bakanoff's age, which was forty-eight.

Bakanoff sought workers' compensation benefits and appellants controverted her claim. The Administrative Law Judge found that Bakanoff suffered a compensable back injury on November 12, 2003. The ALJ's decision was appealed, and the Commission affirmed and adopted the ALJ's decision. This appeal ensued.

We view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's decision and affirm the decision if it is supported by substantial evidence. *Long v. Wal-Mart Stores, Inc.*, \_\_\_ Ark. App. \_\_\_, \_\_\_ S.W.3d \_\_\_ (Feb. 21, 2007). Substantial evidence is evidence that a reasonable mind might accept as adequate

to support a conclusion. *Id.* The issue is not whether this Court might have reached a different result from the one reached by the Commission. *Wal-Mart Stores, Inc. v. Stotts*, 74 Ark. App. 428, 58 S.W.3d 853 (2001). We must affirm the Commission's decision if reasonable minds could reach the same result. *Id.*

Appellants' first point on appeal is that the Commission erred in determining that disc space narrowing is an objective finding. Although this is the point on appeal, appellants actually argue that Bakanoff failed to establish a causal connection between the disc space narrowing and her November 12, 2003 injury. We disagree.

Bakanoff had the burden of proving a compensable injury, *Long, supra*, which is an injury arising out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A) (Supp. 2005); *Stutzman v. Baxter Healthcare Corp.*, \_\_\_ Ark. App. \_\_\_, \_\_\_ S.W.3d \_\_\_ (May 9, 2007). The first prong of the test, which is the compensable injury, must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D); *Long, supra*. Objective findings are those findings which cannot come under the voluntary control of the patient. *Long, supra*. The second prong of the test is the causal relationship between the compensable injury and the employment. *Searcy Indus. Laundry, Inc. v. Ferren*, 82 Ark. App. 69, 110 S.W.3d 306 (2003). Bakanoff was not required to present objective medical findings to prove the causal relationship. *See id.* The Commission, as fact finder, has the duty to weigh the evidence and determine whether there is a causal relationship

between the compensable injury and the employment. *See Clairday v. The Lilly Co.*, 95 Ark. App. 94, \_\_\_ S.W.3d \_\_\_ (2006).

Appellants assert that neither Dr. Blankenship nor Dr. Peeples linked the disc space changes to Bakanoff's injury. Bakanoff, however, was not required to present medical evidence to establish a causal connection. In finding that Bakanoff established a causal relationship, the Commission wrote:

In light of Dr. Blankenship's conclusions . . . , the persistent nature of the claimant's symptoms after the work incident, and her lack of symptoms before the work incident, I also find that the claimant has established by a preponderance of the evidence that the objective medical finding of disc space narrowing identified by Dr. Blankenship is causally related to the claimant's work injury.

The Commission correctly weighed the testimony, performed its fact-finding function, and determined that there was a causal connection between Bakanoff's compensable injury and her employment. This determination has the force of a jury verdict, and we will not reverse it because reasonable minds could have reached a similar conclusion. *Clairday, supra*.

Appellants' second argument is that there is no "substantive" evidence supporting the Commission's holding that Bakanoff sustained a compensable injury to her back on November 12, 2003. In support of this argument, appellants rely on Dr. Peeples's disagreement with Dr. Blankenship's conclusions. This, however, is a conflict in witness testimony which was resolved by the Commission in its capacity as fact finder. *See Clairday, supra*. We affirm because Dr. Blankenship provided substantial evidence supporting the Commission's determination.

Affirmed.

GLADWIN and MARSHALL, JJ., agree.